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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/888,651	06/26/2001	Hans-Heinrich Muller	31512-172587	9122

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EXAMINER

WALLS, DIONNE A

ART UNIT	PAPER NUMBER
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1731

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DATE MAILED: 04/07/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/888,651

Applicant(s)

MULLER ET AL.

Examiner

Dionne A. Walls

Art Unit

1731

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 26 March 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.
- NOTE: \_\_\_\_\_.
3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: \_\_\_\_\_.
- Claim(s) objected to: \_\_\_\_\_.
- Claim(s) rejected: \_\_\_\_\_.
- Claim(s) withdrawn from consideration: \_\_\_\_\_.
8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☒ Other: See Continuation Sheet

Continuation of 5. does NOT place the application in condition for allowance because: the Examiner is not convinced by Applicant's arguments. Applicant asserts that one skilled in the art would not have used the carbides disclosed in Runkle for material to be bonded/clad to the steel substrate of the tobacco duct in the present invention because the language in the reference would have discouraged one from doing so as it states that "carbides are too brittle to be used as structural elements" and that "wear resistant materials (such as carbides) typically are more costly than common alloy steel". The Examiner disagrees with Applicant's contentions, and believes that the Runkle reference would have motivated one having ordinary skill in the art to utilize tungsten carbide (a ceramic material) in lieu of tungsten-carbide/cobalt (which is a cermet, and whose use is known in the tobacco art), because of the fact that tungsten carbide has outstanding wear resistance, and Runkle does not teach away from the use of tungsten carbide as a COATING which can be bonded/clad to steel substrates. The Examiner does admit that Runkle indicates that tungsten carbide may be too brittle for use as a structural element; however, in the instant case tungsten carbide is not being used as a "structural element" (i.e. a steel substrate), but as a coating to be clad onto a structural element. Runkle just suggests that the cermet, tungsten carbide cobalt, (NOT tungsten carbide) may present difficulties if it is bonded/clad to steel. The Examiner believes that, pursuant to the teachings of Runkle, and if cost is not a considerable object, one of ordinary skill in the art would be motivated to use tungsten carbide, in place of tungsten carbide cobalt, as a coating for the steel substrate in the tobacco conveyor Admitted by Applicant.

Continuation of 10. Other: For the reasons stated above, the rejections made over the prior art, in the Final Rejection mailed on 12-26-2002, is maintained.



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